
Finance Committee

HB 1845

Brief Description: Modifying unclaimed property provisions.

Sponsors: Representatives Orcutt and McIntire; by request of Department of Revenue.

Brief Summary of Bill

- Modifies certain requirements regarding notification of apparent owners of unclaimed property.
- Allows the Department of Revenue to liquidate unclaimed mutual fund holdings.
- Revises the heir locator fee restrictions to allow for fees of up to 20 percent of the value of the unclaimed property after a set time period.
- Authorizes the Department to contract with licensed private investigators to provide them with additional information of apparent owners of unclaimed property.

Hearing Date: 2/22/05.

Staff: Mark Matteson (786-7145).

Background:

Under the state Unclaimed Property program, a business that holds unclaimed intangible property must transfer it to the Department of Revenue (DOR) after a holding period set by statute. The holding period varies by type of property, but for most unclaimed property the holding period is three years. After the holding period has passed, the business in possession of the property transfers the property to the DOR.

Notification of Apparent Owners. Under the program, the DOR's duty is to find the rightful owner of the property, if possible. One of the Department's requirements is to place a notice by November 1 of each year in a newspaper of general circulation in each county which contains the last known address of an apparent owner of unclaimed property that is reported and turned over to the state in that year. If the Department does not have any such address, then the notice must be published in the county in which the holder of the property has its principal place of business. The notice must contain the names and addresses of the persons whose last known address was within the county. The notice must also provide explanation of how persons possessing an interest in the

property may contact the Department for further information. The Department is not required to publish notices when the property value is less than \$75.

The Department is required to mail notices by September 1 of each year to apparent owners of unclaimed property that has been reported and turned over to the state in that year. The notice must contain the name and last known address of the person holding the property.

Disposition of Property in Custody of the State. In general, abandoned property turned over to the Department is deposited directly, or else liquidated and then deposited, to the state general fund. Stocks and other securities presumed abandoned and turned over to the state are required to be sold no more than three years after the state has received the property. However, the Department is prohibited from liquidating mutual funds and other plans that provide for the automatic reinvestment of dividends or other sums payable as the result of the investment.

After attempting to find the owner, the Department is authorized to destroy any abandoned property that is deemed to have no or little commercial value. However, documents to be destroyed must be copied on film and held for ten years.

Locating Apparent Owners. Businesses that match unclaimed property held by the DOR with the owner are known as "heir locators". These businesses are prohibited from charging the owner a fee of more than 5 percent of the property's value. The Department has no authority to enter into contracts with licensed investigators.

Unclaimed Property Held by Municipalities. Counties, cities, and other municipal corporations are exempt from the requirement to report certain abandoned property to the state. This property includes certain canceled warrants, uncashed checks, excess proceeds from foreclosures pursuant to the enforcement of property tax delinquencies, and property tax overpayments or refunds. The local government may retain such property until notified by the owner but must provide a listing of such property to the Department, which is required to publish details of the property in the same manner that details of other state-held property are published.

In the 2004 session, the Legislature enacted modifications to statutory requirements concerning county treasurers. One of the modifications provides that, after three years, any claim to excess proceeds from foreclosures pursuant to property tax delinquency enforcement is extinguished.

Unclaimed Property - Receipt. In 1992, the Legislature enacted a law that authorized the state to receive unclaimed intangible property held by out-of-state brokers when the issuer of the intangible property is located in Washington. The law was ultimately contingent upon a 1993 United States Supreme Court ruling in a case concerning the basis of the right of a state to unclaimed property. The court ruled that the right to unclaimed intangible property is that of the state of the broker's incorporation and not that of the state of the principle place of business. The ruling made the Washington law moot.

Summary of Bill:

The requirement that the Department publish the names and addresses of apparent owners of unclaimed property in newspapers is replaced with a requirement to publish a summary explanation of how owners may obtain information about unclaimed property reported to the Department. The Department is relieved of the requirement to publish in a newspaper of general circulation in each county for which the Department has addresses of apparent owners or holders

of unclaimed property, and must instead utilize the newspaper most likely to give notice to the apparent owner. The requirement that the Department include the address of the property holder in its mailed notice to apparent owners is deleted and replaced with a requirement to include a description of the type of property.

Excess proceeds held by local governments from foreclosures pursuant to property tax delinquencies are exempt from the provisions of the Unclaimed Property program.

The prohibition against selling mutual funds and other reinvestment plans is removed. The requirement to copy on film any documents to be destroyed is also deleted.

The restriction that makes it unlawful for any person to enter into a contract for the purposes of locating unclaimed property for a fee in excess of 5 percent of the value of the property is modified. In general, an owner of property presumed abandoned may contract for locating the property for a fee of up to 20 percent of the value of the property. However, no such contract is valid if entered into within 24 months of when the property was delivered to the Department. The owner may allow a fee that exceeds 20 percent of the value of the property at his/her discretion.

The Department is authorized to enter into contracts with licensed private investigators and release reported information of apparent owners to them. The Department is required to develop a schedule of associated fees for information provided that covers the costs of the program.

The provision authorizing the state to receive unclaimed property held by out-of-state brokers but issued from within the state is repealed.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The provisions concerning modifications to the heir finder restriction provisions and the authorization for the Department to enter into contracts with private investigators are effective July 1, 2007; all other parts of the bill are effective 90 days after the session in which the bill was signed.